

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNIFIED MESSAGING SOLUTIONS LLC,

Plaintiff,

v.

GOOGLE, INC., et al.,

Defendants.

Civil Action No. 6:11cv464

JURY TRIAL DEMANDED

MOTION TO DISMISS DEFENDANT DELL INC. WITH PREJUDICE

Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) and (c), Plaintiff Unified Messaging Solutions LLC (“Unified Messaging”) and Defendant Dell Inc. (“Dell”) hereby stipulate that all claims and causes of action asserted by Unified Messaging against Dell, and all claims and causes of action asserted by Dell against Unified Messaging, in the above-entitled and numbered action be, and hereby are, dismissed with prejudice to re-filing same. A proposed order is attached. Each party shall bear its own costs and fees, including attorneys’ fees.

Dated: August 2, 2012.

Respectfully submitted,

/s/ Edward R. Nelson, III
Edward R. Nelson, III
Texas State Bar No. 00797142
Attorney-in-Charge
Brent N. Bumgardner
Texas State Bar No. 00795272
Christie B. Lindsey
Texas State Bar No. 24041918
Thomas C. Cecil
Texas State Bar No. 24069489
NELSON BUMGARDNER CASTO, P.C.
3131 West 7th Street, Suite 300
Fort Worth, Texas 76107
(817) 377-9111
(817) 377-3485 (fax)
enelson@nbclaw.net
bbumgarnder@nbclaw.net
clindsey@nbclaw.net
tcecil@nbclaw.net

T. John Ward, Jr.
Texas State Bar No. 00794818
J. Wesley Hill

State Bar No. 24032294
WARD & SMITH LAW FIRM
P.O. Box 1231
1127 Judson Rd., Ste. 220
Longview, Texas 75606-1231
(903) 757-6400
(903) 757-2323 (fax)
jw@wsfirm.com
wh@wsfirm.com

Eric M. Albritton
Texas State Bar No. 00790215
ALBRITTON LAW FIRM
P.O. Box 2649
Longview, TX 75606
(903) 757-8449
(903) 758-7397 (fax)
ema@emafirm.com

**Attorneys for Plaintiff
Unified Messaging Solutions LLC**

By: /s/ Eugene Y. Mar

Eugene Y. Mar
Janel Thamkul
Roderick M. Thompson
FARELLA BRAUN & MARTEL LLP
235 Montgomery Street, 17th Floor
San Francisco, CA 94104
(415) 954-4400
(415) 954-4480 – fax
emar@fbm.com
jthamkul@fbm.com
rthompson@fbm.com

Deron R. Dacus
Shannon Dacus
THE DACUS FIRM, P.C.
821 ESE Loop 323
Suite 430
Tyler, Texas 75701
(903) 705-1117
(903) 581-2543 – fax
ddacus@dacusfirm.com
sdacus@dacusfirm.com

**Counsel for Defendant
Dell Inc.**

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of August, 2012, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Eastern District of Texas, Tyler Division, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/Edward R. Nelson, III
Edward R. Nelson, III

CERTIFICATE OF CONFERENCE

I hereby certify that Plaintiff Unified Messaging Solutions LLC and Defendant Dell Inc. have conferred regarding the forgoing motion, and Dell indicated that it was in agreement with this motion.

/s/ Edward R. Nelson, III